REMARKS

By this amendment claims 5, 8 and 9 are amended. Support can be found in the specification in the claims as originally filed and in the specification, for example, at paragraphs 20-22. There is no new matter. Entry of these amendments is deemed proper.

Statements of the substance of the September 19, 2006 interview are incorporated in the discussion below in reference to the specific rejections and amendments discussed.

Rejections under 35 U.S.C. §112

Claims 8-11 were rejected under 35 U.S.C. §112, second paragraph. The Office Action slleged that "derivative was indefinite because the specification did not offer guidance. The advance prosecution, guidance from the specification is incorporated into claim 8. See especially amended claim 8 and paragraph 22. Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 5-7 and 9 were rejected under 35 U.S.C. §112, first paragraph as allegedly introducing new matter with respect to the term "fragment". For the record Applicants respectfully remind all concerned that in the response wherein "fragment" was introduced in the amended claims the following sentences were included.

> Under the second bullet point the Office Action rejects claims 1-5. The term "derivative" is alleged to be unclear. Claim 5 is amended to recite alternative language for the phrase "VASP derivative". Support for the amendment can be found in the specification, for example at paragraph 39.

Paragraph 39 READS:

> The protein having an EVH1 binding domain is preferably zyxin or a zyxin derivative. Furthermore, the zyxin derivative is preferably formed by a fusion protein of zyxin, a zyxin fragment and a glutathione S-transferase, or of zyxin or a zyxin fragment and a maltose binding protein, or of zyxin or a zyxin fragment and hexahistidine. The protein having an EVH1 domain is preferably VASP or a VASP derivative, or a fusion protein of VASP or a VASP fragment, and glutathione S-transferase, maltose binding protein, or hexahistidine.

At page 4, lines 4 and 5 of the final Office action, the Examiner states:

These two meanings do not encompass the same scope, therefore, the term "fragment" is not supported in the specification.

In accordance with a suggestion by the Examiner in the September 19, 2006 telephone conference, "fragments" are now qualified in scope to identify elements of the proteins that must be incorporated in the "fragments". Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 5-11 were rejected under 35 U.S.C. §112, first paragraph based on the written description requirement. Claims 5 and 9 are amended to more specifically define the fragments in accordance with a discussion in the September 19, 2006 telephone conference with the Examiner. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejection under 35 U.S.C. §103

At paragraph 6 of the Office Action, claims 1, 3-10, 12 13 and 16-20 were rejected under 35 U.S.C. §103 as being allegedly obvious over Gertler in view of Reinhard and Evangelista. Applicants respectfully traverse this rejection.

The Office Action cites Gertler, page 23, as teaching modulators of Mena or Ena-VASP. Applicants respectfully assert that teachings of Gertler are being mischaracterized.

Gertler makes no apparent distinction between an EVH1 domain and an EVH1 binding domain. There is no teaching or suggestion as to which domains or fragments of the molecules participate in the binding. While Gertler would appear to teach purification and detection methods to the skilled artisan, one cannot say that these teachings teach all the limitations of the instantly claimed invention. For example, at page 23, lines 20-28, Gertler discusses "one or more of the Mena or Ev1 functional domains". At page 5, first complete paragraph, Gertler admits only preliminary characterization of Ena and Vasp. The interactions featured in the present invention are neither taught or suggested.

In Gertler mammalian Ena (Mena) is a regulatory protein. Gertler's assay is directed to modulation of Mena activity (binding to proline rich ligands (page 15, lines 30-34)) such as by using competitive proteins or triplex forming oligonucleotides (page 10, lines 21-35) to study microfilament assembly (page 6, lines2-5) and thus appears to be directed to a different problem than addressed by the instant invention. Combination

of the teachings of Gertler with those of Reinhard and Evangelista fail to teach or suggest all features claimed in the present application.

Thus since a reading by the skilled artisan of Gertler cannot properly be said to arrive at the teachings as cited in the Office Action, the combination of references based on Getner fails to teach or suggest all elements necessary to reject the instant claims.

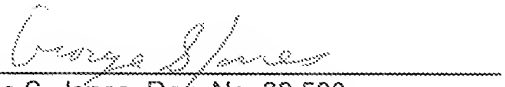
Reinhard and Evangelista are not alleged in the Office Action to overcome these deficiencies. Rheinhard relates to microtiter plates and ligands, while Evangelista was applied for teachings relating to labeling for detection assays. Thsese teachings cannot properly be said to remedy the deficiencies of Gertler. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Concluding Remarks

The Commissioner is authorized to charge any fees under 37 C.F.R. §1.17(r) or credit any overpayment to Account No. 18-1982.

Applicants respectfully submit that the application is now in condition for allowance and request prompt issuance of a Notice of Allowance indicating such. Should the Examiner believe that an interview could put this application in even better condition for allowance, Applicants invite her to contact the undersigned at 908-231-3776.

Respectfully submitted,



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